

**COMMISSION ON JUDICIAL SELECTION**

**APPLICATION**

**NEVADA SUPREME COURT  
SEAT G**

**By**

**LIDIA S. STIGLICH**

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**COMMISSION ON JUDICIAL SELECTION  
CERTIFICATION, WAIVER OF CONFIDENTIALITY AND RELEASE OF  
INFORMATION**

I hereby certify that the answers and information provided herewith are true and correct to the best of my knowledge. ms (initial)

I hereby certify that I meet the minimum qualifications to be a Supreme Court Justice as set forth in NRS 2.020. ms (initial)

I authorize any person or custodian of records, including, without limitation, the Commission on Judicial Discipline; the Department of Public Safety, Records and Identification Services; the Federal Bureau of Investigation; the Supreme Court of Nevada, Office of the Clerk; any credit reporting agency utilized by the Commission, and the State Bar of Nevada to release to the Commission on Judicial Selection any and all information that may be available concerning me. ms (initial)

I hereby release and discharge the Nevada Commission on Judicial Selection (Commission), its individual members, as now or hereafter constituted, and any other entity and/or individual(s) authorized herein to provide information to the Commission, of and from any and all claims, demands, liability and damages arising out of the release and use of such information concerning me, the undersigned, on file or otherwise available with any of the said entities and/or individuals. ms (initial)

Should I be favorably considered, I will accept appointment to the Court indicated. ms (initial)

Lidia S. Stiglich  
Signature of Applicant

09-07-16  
Date

Lidia S. Stiglich  
Printed Name of Applicant

STATE OF NEVADA           )  
  ) ss.  
COUNTY OF WASHOE       )

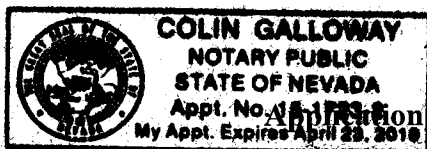
The undersigned, upon oath, deposes and states as follows: That (s)he is the person whose signature appears herein above on the instrument entitled "Application", that (s)he has read the same and is aware of the contents thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (s)he executed the same freely and voluntarily, and for the purpose of inducing the Nevada Commission on Judicial Selection to give favorable consideration to this Application for judicial office.

Lidia S. Stiglich  
Signature of Applicant

Lidia S. Stiglich  
Printed Name of Applicant

SUBSCRIBED and SWORN to before me this 7th of September, 2016

[Signature]  
Notary



Application Deadline: 5:00 p.m. Friday September 9, 2016

**SECTION I: PUBLIC INFORMATION  
(QUESTIONS 1 THROUGH 47)**

**Personal Information**

1. Full Name: **Lidia S. Stiglich**
2. Have you ever used or been known by any other legal name (including a maiden name)? **No**  
If so, state name and reason for the name change and years used.
3. Work Address: **Second Judicial District Court, Department Eight, 75 Court Street, Reno, NV 89501**
4. How long have you been a continuous resident of Nevada? **Eight years**
5. Age: **46**  
(NRS 2.020 states that a Supreme Court justice must be at least 25 years old.)

**Employment History**

6. Using the format provided in Attachment "A" please start with your current employment or most recent employment, self-employment, and periods of unemployment for the 20 years immediately preceding the filing of this Application.

**Educational Background**

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

**Pittsburg High School  
1750 Harbor Street  
Pittsburg, California 94565  
1983-1987  
Graduated: High School Diploma**

**University of California, Berkeley  
110 Sproul Hall, #5800  
Berkeley, California 94720-5800  
1987-1992  
Graduated: B.S. Business Administration, *Emphasis* Finance**

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

### **Activities in High School**

#### ***Sports***

**From a young age, I have loved and participated in athletics. I believe athletics help women, in particular, develop concepts of teamwork, problem-solving, and leadership. As a high school student, I was able to participate in a number of varsity sports – volleyball, cross country, basketball, and softball. I was recognized as a stand-out athlete in softball and basketball where I earned All-League and All Northern California Interscholastic Federation (CIF) honors.**

#### ***Leadership***

**In high school, I began to fully explore and embrace my leadership skills. Throughout my four years of high school, I was elected to various student government positions. In my senior year I was elected by my peers to be Student Body President.**

#### ***Other Activities***

**In addition to my participation in sports and student government, I was a member of numerous academic and social campus organizations. I also kept on-field statistics for the varsity football team.**

### **Activities in College**

#### ***Sports***

**During my final years of high school, I was recruited for athletic programs by a number of universities, including offers of admission from the United States Naval Academy at Annapolis and the United States Military Academy at West Point. After initially accepting the offer of admission to West Point, I opted instead to attend the University of California at Berkeley (Cal).**

**I was very active as a student at Cal. I was invited to join the NCAA Division I softball team. After a redshirt freshman year, I entered the catching rotation and became the starting catcher for my final three years. During my senior year, the team earned a berth to the prestigious NCAA College World Series. Although we did not win the Series, our team provided a foundation and legacy for the success of future Cal softball teams. Indeed, a number of later Cal softball teams have gone on to great post-season success, including a national championship in 2002. I was honored to be chosen for “1<sup>st</sup> Team Academic All Pac-10 Honors” during my junior and senior years. For me, the most impactful aspect of my Cal athletic experience involved the team’s commitment to nurturing youth through training camps and clinics. I was fortunate to work with many girls who attended our clinics and watch them grow into poised and confident young women. I count some of these women among my friends today.**

### *Leadership*

I was elected by my peers to serve as Co-President of the Women's Athletic Association. This body represented all of the women athletes at Cal. When I entered Cal, the Men's and Women's Athletic Departments were separate entities, with separate and unequal budgets and facilities. The Women's Athletic Association was instrumental in facilitating a merger between the Women's and Men's Athletic Departments, which has greatly benefitted all athletes at Cal.

### *Other Activities*

Having planned on attending West Point on a full scholarship, I was unprepared for the financial implications of my choice to attend Cal. My family was supportive of my decision, but did not have the means to provide significant financial support for my studies. As a result, I worked the entire time I was a student at Cal, even during rigorous softball seasons, in order to pay necessary fees and living expenses. I served as an instructor at various sports clinics and camps during the summers. During the first summer in particular, I also drove a truck for Canteen Corporation delivering meals to the elderly and worked at a local 7-11. For the balance of my time at Cal, both during the school year and over the summers, I worked in various "on campus" positions. I was fortunate to gain employment at the Recreational Sports Facility, which is a campus health club. I started as a "towel" person with the facility, and worked my way up to the position of supervisor. I worked women's athletic events selling concessions. I also earned money working as a driver for the University of California Regents. When the Regents were in town for meetings, I was among a small pool of individuals who ferried them from the airport to meetings, to the hotel and back.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

University of California, Hastings College of the Law  
200 McAllister Street  
San Francisco, California  
J.D. 1995  
174/401

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

**I was employed part-time during law school.**

From 1994 until 1997, I worked part-time at the law firm of Grossman and Gibbs. Grossman and Gibbs was a two-partner law firm in Berkeley, California, which specialized in civil litigation, criminal litigation, writs and appeals. I assisted the lawyers in the criminal and civil litigation aspects of their practice by preparing civil discovery, meeting with clients, and drafting memoranda and pleadings. On the writs and appeals side of the firm, I performed necessary research, reviewed pleadings for adherence to local rules and drafted briefs. My employers were Elizabeth Grossman and Lawrence Gibbs. I worked

intermittently at this law firm through law school until I joined the Solano County Office of the Public Defender in early 1997.

I worked in an unpaid externship in the summer of 2004 at the First District Court of Appeals where I was an extern for the Honorable Justice Marcel Poché. In that capacity, I was responsible for attending oral arguments, reviewing and summarizing briefs, legal research and drafting bench memoranda. I worked under the direct supervision of staff attorney Melissa Crowell.

I also continued to earn part-time income by instructing at various softball clinics and camps across the country.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, extracurricular activities.

In my second year of law school, I was selected to participate on the Hastings Constitutional Law Quarterly, which is the country's oldest law journal devoted exclusively to constitutional law. In my third year, I was chosen as a Note Editor. As a Note Editor, I mentored and assisted second year law students in preparing their individual Notes. In addition, my peers selected my Note for publication. This Note, "Comment, Fourth Amendment Protection for Juvenile Probationers in California, Slim or None?: In re Tyrell J." *Hastings Constitutional Law Quarterly*, Vol 22, No. 3 p.893 [1995], has been cited favorably by the California Supreme Court as well as other legal reference materials and Notes.

One of the most valuable resources Hastings provides to its students are the clinical programs. I was fortunate to participate in a number of these clinical programs while a student at Hastings. In my second year, I elected to participate in an Evidence Advocacy Clinic which provided hands on experience working with a seasoned civil practitioner. I participated in a judicial externship program for the Honorable Marcel Poché. Because of my work in the program, I was invited by Justice Poché to continue on with him in the summer.

I also participated in a Criminal Justice Clinic which partnered law students with the San Francisco Public Defender's or District Attorney's Office. I chose to work for the public defender where, as a bar certified student intern, I was able to represent indigent clients in court proceedings under the direct supervision of a deputy public defender. This valuable experience fueled an already strong interest in indigent criminal defense.

I was active on campus and in clubs. My classmates and I founded a chapter of the co-ed law fraternity Phi Alpha Delta. This fraternity is the largest co-ed professional law fraternity in the United States.

Throughout law school, I continued to participate in fastpitch softball. I played Women's Major Fastpitch Softball with various club teams in Los Angeles, earning a national championship and garnering All-American Honors. I was invited to and participated in Team USA training camps and Olympic Festivals. In 1995, I was extremely proud to be one of only 60 athletes invited to try out for the 1996 Olympic Softball Team at the first U.S. Olympic Softball trials in Oklahoma City. Although I did not make the Olympic Team, I traveled to Georgia to watch Team USA win the first gold medal in softball at the

**Atlanta Olympic Summer Games in 1996. After the Olympics, I continued to participate in Women's Major Fastpitch Softball and Team USA training camps. In 1997, I was offered a position representing the United States on the B Team for the Pan American Games. While it was a dream to represent the United States in competition, I had received an offer to join the San Francisco Public Defender's Office, so I declined the slot, accepted the job, and effectively hung up my spikes.**

Law Practice
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12. State the year you were admitted to the Nevada Bar. **2008**
13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission. **California 1996**
14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

**No**

15. Estimate what percentage of your work over the last 5 years has involved litigation matters, distinguishing between trial and appellate courts. **For judges**, answer questions 16-20 for the 5 years directly preceding your appointment or election to the bench.

**As a District Judge in a court of general jurisdiction, all the cases assigned to Department Eight are, by definition, litigation matters. I spend approximately 80-90 percent of my time on these cases. The remainder of my time is spent on judicial mediations, probate court, specialty courts, and administrative matters.**

16. Estimate percentage of time spent on (1) domestic/family and juvenile law matters, (2) civil litigation, (3) criminal matters, and (4) administrative litigation.

**(1) Domestic/Family and Juvenile: 10 percent;  
(2) Civil Litigation: 15 percent;  
(3) Criminal: 40 percent; and  
(4) Administrative: 35 percent.**

17. In the past 5 years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

**I estimate 60 percent of my litigation matters involved cases set for jury trial. My criminal practice consisted largely of state and federal felony criminal matters, all of which were set for jury trial.**

**The balance of the non-jury litigation matters involved trials in front of administrative bodies, occasional misdemeanor bench trial settings, and hearings on restraining orders and juvenile matters.**

18. Give the approximate number of jury cases tried to a conclusion during the past 5 years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

**Eight jury trials and approximately ten to fifteen non-jury trials**

19. List courts and counties in any state where you have practiced in the past 5 years.

COURT	COUNTY
Second Judicial District Court	Washoe County
Reno Justice Court	Washoe County
Reno Municipal Court	Washoe County
Sparks Justice Court	Washoe County
Sparks Municipal Court	Washoe County
Incline Village Justice Court	Washoe County
Eighth Judicial District Court	Clark County
Las Vegas Township Justice Court	Clark County
Tahoe Justice Court	Douglas County
Tenth Judicial District Court	Churchill County
New River Township Justice Court	Churchill County
Supreme Court of Nevada	Not applicable
United States District Court	District of Nevada
California Superior Court	San Francisco County
California Superior Court	Contra Costa County
California Superior Court	Solano County
California Superior Court	El Dorado County
California Superior Court	Placer County
California Superior Court	Alameda County
California Superior Court	San Bernardino County
United States District Court	Northern District of California
United States District Court	Eastern District of California

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), and list or describe:
- case name and date,
  - court and presiding judge and all counsel
  - the importance of each case to you and the impact of each case on you,
  - your role in the case.

### **Case Number 1**

a. case name and date: *State of Nevada v. Brian Krolicki, et al. (2008)*

b. court and presiding judge and all counsel:

**Court:** Eighth Judicial District Court, Clark County, Nevada  
**Presiding Judge(s):** Honorable Elena Cadish and Honorable Valerie Adair  
**Counsel for State:** Conrad Hafen, Nevada Attorney General's Office  
**Counsel for Defendant Krolicki:** Richard Wright, Margaret Stanish and Kent Robison  
**Counsel for Defendant Besser:** Lidia S. Stiglich



c. the importance of each case to you and the impact of each case on you:

**My client, Kathryn Besser, served as Chief of Staff for Lieutenant Governor Brian Krolicki. Ms. Besser and Lieutenant Governor Krolicki were indicted by a Clark County grand jury on charges stemming from their management of a multi-billion dollar college savings program when Lieutenant Governor Krolicki served as State Treasurer. As a lawyer, I found the legal issues complex and the political issues interesting. I was able to mount a successful challenge to the indictment which effectively ended the case.**

**What affected me most about the case, however, was the impact this matter had on Ms. Besser. Ms. Besser had dedicated her life to public service. She took her job seriously and performed her duties diligently and thoroughly. She saw the reputation that she worked so hard to achieve shattered with the filing of the indictment in this case. It affected her health and personal life dramatically. While the case was ultimately dismissed, the toll had been taken. This case demonstrated to me that even when the judicial system reaches a correct result, as I believe it did here, a correct result cannot always undo the collateral damage to a person's life.**

d. your role in the case: **I served as lead counsel for Defendant Kathryn Besser.**

### **Case Number 2**

a. case name and date: ***State of Nevada v. Deyundrea Holmes (2010)***

b. court and presiding judge and all counsel:

<b>Court:</b>	<b>Second Judicial District Court, Washoe County, Nevada</b>
<b>Presiding Judge:</b>	<b>Honorable Janet J. Berry</b>
<b>Counsel for State:</b>	<b>Christopher Hicks, Washoe County District Attorney's Office</b>
<b>Counsel for Defendant:</b>	<b>Lidia S. Stiglich</b>

c. the importance of each case to you and the impact of each case on you:

**Mr. Holmes was arrested in 2007 and charged with first degree murder as the result of a DNA "cold hit." The victim was a local methamphetamine dealer who was shot and killed during a botched robbery attempt in 2003. Initially, the only evidence linking Mr. Holmes to the crime was a cigarette butt located across the street from the crime scene. The case consisted largely of eyewitness testimony and DNA evidence located near the scene of the crime. Eventually several co-conspirators also came forward and gave testimony against Mr. Holmes.**

**The matter went to trial after extensive motion work which included complex challenges to the DNA evidence, the identifications of percipient witnesses and an interview Mr. Holmes gave to law enforcement. Expert testimony was utilized in the areas of speech pathology, DNA and eyewitness identification. During trial, we litigated other issues as they arose, including the use of "rap" lyrics alleged to be authored by Mr. Holmes. Mr. Holmes was ultimately convicted of first degree murder.**

**This case was a hard fought one. It was a reminder that even in the most heated and serious cases, it is possible to work effectively to represent your client while maintaining a professional relationship with opposing counsel and an exacting bench officer.**

d. your role in the case: **I served as lead counsel for Defendant Deyundrea Holmes.**

### **Case Number 3**

a. case name and date: *Aiting Lin v. ABM Industries, et al.* (2007)

b. court and presiding judge and all counsel:

<b>Court:</b>	<b>San Francisco Superior Court (Civil), California</b>
<b>Presiding Judge(s):</b>	<b>Not applicable</b>
<b>Counsel for Plaintiff:</b>	<b>Lidia S. Stiglich and Clayton P. Brust</b>
<b>Counsel for Defendant ABM:</b>	<b>Bruce Imai, Michelle Ballard Miller and Jeffrey Lowe</b>
<b>Counsel for Defendant Wong:</b>	<b>Daniel Maguire</b>

c. the importance of each case to you and the impact of each case on you:

**Aiting Lin worked as an office cleaner for ABM Industries, a nationwide cleaning firm. Ms. Lin spoke only Cantonese and lived a very humble existence. During her employment with ABM, she was consistently sexually harassed by her supervisor, Dut Wong. The harassment by Mr. Wong was particularly insidious as he was the only supervisor at her facility that spoke Cantonese, leaving her little, if any, recourse or assistance. Mr. Wong's harassment turned violent one evening when he lay in wait in one of the darkened offices Ms. Lin was scheduled to clean. Upon entry into the office, Mr. Wong attempted to sexually assault her and a struggle ensued. As Ms. Lin cried out for help and tried to get away, Mr. Wong slashed her face with a knife, opening a gaping wound.**

**This lawsuit gave me an opportunity to represent Ms. Lin, a non-English speaking laborer, against the collective power and resources of a national corporation. It is these types of cases that make me proud to be a lawyer. The lawsuit was filed in 2004 and was finally settled in 2007. Ms. Lin struggled with the physical and emotional scars of this assault throughout the litigation. This case taught me the importance of not allowing procedural delays to subvert justice. The effect the case had on Ms. Lin's psyche was palpable. A different Plaintiff may have folded under the weight of the litigation, but not Ms. Lin. She was diminutive in stature, but not in heart.**

**This case was one of my proudest accomplishments. We were able to provide Ms. Lin emotional and legal support to achieve a fresh start in life.**

d. your role in the case: **I served as co-counsel with Clayton P. Brust for Plaintiff Aiting Lin.**

### **Case Number 4**

a. case name and date: *United States v. Julie Lee* (2008)

b. court and presiding judge and all counsel:

<b>Court:</b>	<b>United States District Court, Eastern District of California</b>
<b>Presiding Judge:</b>	<b>Honorable Lawrence Karlton</b>
<b>Counsel for People:</b>	<b>Lawrence Brown and John Vincent, United States Attorney's Office</b>
<b>Counsel for Defendant:</b>	<b>Lidia S. Stiglich</b>

c. the importance of each case to you and the impact of each case on you:

**Julie Lee was a powerful community organizer and political fundraiser in San Francisco. Ms. Lee, a vociferous advocate for the Chinese American community, set her sights on building a community center in San Francisco's Sunset Neighborhood. To this end, she received a \$500,000 state grant for construction. Shortly after the receipt of the funds, Ms. Lee began to funnel the grant money into a campaign account belonging to former Secretary of State Kevin Shelley. Approximately \$125,000 was diverted in this fashion. The community center was never built and Secretary Shelley eventually resigned as a result of this scheme. Ms. Lee was charged in a federal indictment with seven counts of mail fraud and witness tampering. At trial, Ms. Lee was convicted of five of the seven counts and faced up to 70 years in federal prison.**

**My concern was whether Ms. Lee would receive a just sentence. Ms. Lee was a 60 year old, ethnic Chinese woman. Many of the witnesses were also ethnic Chinese and few spoke English. I recognized I had to acquaint myself with Ms. Lee's culture in order to understand the perspectives and attitudes that brought her to the conduct in question. Only by understanding her perspective was I able to navigate the inherent cultural biases which quickly revealed themselves in the case. By connecting with Ms. Lee as a human being, I was able to advocate effectively on her behalf. Ms. Lee was sentenced to a year and a day in the federal penitentiary – effectively a 10 month sentence.**

d. your role in the case: **I served as lead counsel for Defendant Julie Lee.**

### **Case Number 5**

a. case name and date: ***People v. Ross Mirkarimi* (2012)**

b. court and presiding judge and all counsel:

<b>Court:</b>	<b>San Francisco Superior Court (Criminal), California</b>
<b>Presiding Judge:</b>	<b>Honorable Garrett Wong</b>
<b>Counsel for People:</b>	<b>Elizabeth Tarchi, San Francisco District Attorney's Office</b>
<b>Counsel for Defendant:</b>	<b>Lidia S. Stiglich</b>

c. the importance of each case to you and the impact of each case on you:

**Ross Mirkarimi was elected San Francisco County Sheriff in November 2011. Prior to taking office, he was charged with misdemeanor domestic violence for a New Year's Eve incident which resulted in a bruise to his wife's upper arm. There was a large public outcry and the case garnered national media attention.**

**The matter was already set for a no-time waiver jury trial when I entered the case. The case presented complex issues related to the introduction and constitutionality of hearsay evidence, prior bad acts and prejudicial pretrial publicity. A looming consideration throughout was the effect the case would have on his position as Sheriff. I had to quickly develop and implement a flexible legal and media strategy. We exhausted every legal avenue available to dispose of the case short of trial. When we were unsuccessful in these efforts, I was able to convince the district attorney's office in the middle of jury selection to amend the complaint to include a charge that would not impact Mr. Mirkarimi's ability to carry a firearm. Mr. Mirkarimi accepted the plea offer thereby preserving his ability to perform his job. With the criminal case behind him, Mr. Mirkarimi was able to then turn to the political fight ahead.**

**This case crystalized for me the importance of establishing credibility. This case was high-profile and politically charged. Because I had worked hard over the course of my career and established credibility, the district attorney and the court were able to rely upon my honest assessment of the case. This allowed us to move forward and resolve the matter in a just manner.**

d. your role in the case: **I served as lead counsel for Defendant Ross Mirkarimi.**

21. Do you now serve or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

**I currently serve as a full-time judicial officer in the Second Judicial District Court, Department Eight (General Jurisdiction).**

22. Describe any pro bono or public interest work as an attorney.

**I have always had a strong commitment to public interest work. I was a public defender for the early part of my career. Upon entering private practice, I maintained my commitment to public service and indigent defense by participating in programs to assist the indigent. I have been a member of the San Francisco Bar Association's Lawyer Referral Service and the Washoe County Conflicts Panel. I was also a member of the Criminal Justice Act Panels for the Northern District of California and the District of Nevada which provide representation for indigent defendants in federal court. I performed pro bono legal services on an as-needed basis to indigent and at-risk youth at the Children's Cabinet in Reno, Nevada.**

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

BAR ASSOCIATIONS AND PROFESSIONAL SOCIETIES PRESENT MEMBERSHIP	
ORGANIZATION	POSITION
State Bar of Nevada	Member
State Bar of California	Member
U.S. District Court, District of Nevada	Member
U.S. District Court, Northern District of California	Member
U.S. District Court, Eastern District of California	Member
Washoe County Bar Association	Member
Nevada District Judges Association	At-Large Board Member Member
National Association of Women Judges	Member
Bruce R. Thompson Inns of Court	Master Member
Northern Nevada Women Lawyers Association	Member
International Association of LGBT Judges	Member
BAR ASSOCIATIONS AND PROFESSIONAL SOCIETIES PAST MEMBERSHIP	
ORGANIZATION	POSITION
San Francisco Bar Association	Member
California Trial Lawyers Association	Member
La Raza Lawyers Association	Life Member
Women Defenders	Board Member
California Attorneys for Criminal Justice	Board of Governors
Bay Area Lawyers for Individual Freedom	Member
California Public Defender Association	Member

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past 5 years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

**I am in compliance with the continuing judicial education requirements in Nevada.**

CONTINUING LEGAL EDUCATION (CLE) COURSES ATTENDED	
DATE	COURSE/SPONSOR
August 31- September 1, 2016	<i>Prescription Drug Abuse Prevention Summit</i> Office of Governor Brian Sandoval
August 22-25, 2016	<i>Leadership for Judges</i> The National Judicial College
August 25, 2016	<i>Administrative Law: Fair Hearing</i> <i>High Volume Decision Writing</i> The National Judicial College
April 26-29, 2016	<i>Nevada Judicial Leadership Summit</i> Administrative Office of the Courts
April 13, 2016	<i>The Nevada Court of Appeals</i> Washoe County Bar Association
April 8, 2016	<i>E-Filing Bench/Bar Meeting</i> Second Judicial District Court/Washoe County Bar Association

<b>March 7-11, 2016</b>	<b><i>Judicial Training</i></b> <b>National Drug Court Institute</b>
<b>February 10, 2016</b>	<b><i>Overview of the Washoe County District Attorney's Office</i></b> <b>Washoe County Bar Association</b>
<b>February 9, 2016</b>	<b><i>Ethics and the Law – What Would Abe Do?</i></b> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>February 8, 2016</b>	<b><i>Civility and Probate Pitfalls</i></b> <b>The State Bar of Nevada; Probate and Trust Section</b>
<b>January 21, 2016</b>	<b><i>Probate Matters: A Self-Study Online Course</i></b> <b>The National Judicial College</b>
<b>September 15, 2015</b>	<b><i>Surrogacy and Parenting Laws in Nevada</i></b> <b>Northern Nevada Women Lawyers Association</b>
<b>August 27, 2015</b>	<b><i>Administrative Law: Fair Hearing</i></b> <b><i>High Volume Decision Writing</i></b> <b>The National Judicial College</b>
<b>April 23-25, 2015</b>	<b><i>Annual Conference</i></b> <b>Nevada District Judges Association</b>
<b>November 19, 2014</b>	<b><i>Thanksgiving Potluck 2: Updated Information from the Probate Commissioner and New Probate Judge</i></b> <b>Probate Bar Association of Washoe County</b>
<b>October 21, 2014</b>	<b><i>What We See in Media – Understanding Culture to Persuade</i></b> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>August 8, 2014</b>	<b><i>Effective Courtroom Advocacy</i></b> <b>Association of Defense Counsel of</b> <b>Northern California &amp; Nevada</b>
<b>May 13, 2014</b>	<b><i>Lawyers Gone Wild – What the State Bar Mandates We Know</i></b> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>May 1, 2014</b>	<b><i>Conducting the Trial</i></b> <b>The National Judicial College</b>
<b>April 24-26, 2014</b>	<b><i>Annual Conference</i></b> <b>Nevada District Judges Association</b>
<b>April 23, 2014</b>	<b><i>Judges Training on Medical Malpractice</i></b> <b>Eight Judicial District Court</b>
<b>March 19, 2014</b>	<b><i>Essential Skills for Tribal Court Judges-Judicial Opinion Writing</i></b> <b>National Tribal Judicial Center</b> <b>At The National Judicial College</b>
<b>March 18, 2014</b>	<b><i>Judicial Panel with: District Court Judges Berry, Peck and Stiglich;</i></b> <b><i>Nevada Supreme Court Justice Saitta; and U.S. District Court</i></b> <b><i>Judge Du</i></b> <b>Northern Nevada Women Lawyers Association</b>
<b>March 13, 2014</b>	<b><i>The Fine Art of Federal Practice</i></b> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>January 14, 2014</b>	<b><i>Court of Appeals Initiative – The Time Has Come</i></b> <b>Northern Nevada Women Lawyers Association</b>

<b>November 20, 2013</b>	<i>New Probate Court Guidelines</i> <b>Probate Bar Association of Washoe County</b>
<b>November 8, 2013</b>	<i>Preserving Issues for Appeal: The District Judges' Perspective</i> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>November 8, 2013</b>	<i>Trial Advocacy: Jury Instruction Workshop</i> <b>State Bar of Nevada</b>
<b>October 15, 2013</b>	<i>New Probate Court Guide</i> <b>Probate Bar Association of Washoe County</b>
<b>October 15, 2013</b>	<i>Social Security Administration</i> <b>Northern Nevada Women Lawyers Association</b>
<b>October 10, 2013</b>	<i>Ethics, Fairness, and Security in Your Courtroom and Community</i> <b>The National Judicial College</b>
<b>October 8, 2013</b>	<i>Persuasive Argument – Making Your Case with Words and More</i> <b>Inns of Court, Bruce R. Thompson Chapter</b>
<b>September 10, 2013</b>	<i>Courtroom Etiquette and Practice Tips</i> <i>Judicial Panel with District Court Judges Freeman, Sattler and Stiglich</i> <b>Nevada Justice Association</b>
<b>May 17, 2013</b>	<i>The Federal Language Assistance Mandate &amp; How It Impacts Nevada State Courts</i> <b>Nevada Supreme Court – Webinar Training</b>
<b>May 10, 2013</b>	<i>As Judges See it: Top Mistakes Attorneys Make in Civil Litigation</i> <b>NBI: National Business Institute</b>
<b>April 28- May 9, 2013</b>	<i>General Jurisdiction</i> <b>The National Judicial College</b>
<b>April 18-20, 2013</b>	<i>Annual Conference</i> <b>Nevada District Judges Association</b>
<b>April 16, 2013</b>	<i>Courtroom Etiquette and Practice Tips</i> <b>Nevada Justice Association</b> <b>Richard A. Harris Series of CLE</b>
<b>March 7, 2013</b>	<i>Women of Nevada Judiciary: Experience &amp; Practice Tips for Becoming a Successful Attorney</i> <b>Northern Nevada Women Lawyers Association</b>
<b>February 5, 2013</b>	<i>2013 Nevada Legislative Session</i> <b>Northern Nevada Women Lawyers Association</b>
<b>January 16, 2013</b>	<i>Mediation Alternatives</i> <b>Probate Bar Association of Washoe County</b>
<b>January 15, 2013</b>	<i>Sex Trafficking in Nevada</i> <b>Northern Nevada Women Lawyers Association</b>
<b>November 14, 2012</b>	<i>Using Technology in the Courtroom</i> <b>Federal Public Defender's Office</b>
<b>November 6, 2012</b>	<i>Nevada Labor Law Commission</i> <b>Northern Nevada Women Lawyers Association</b>
<b>October 16, 2012</b>	<i>Integrity in the Law Profession</i> <b>Northern Nevada Women Lawyers Association</b>
<b>October 4, 2012</b>	<i>USSG 5K1.1</i> <b>Federal Public Defender's Office</b>

<b>April 27, 2012</b>	<b><i>Batson Challenges and Jury Selection</i></b> <b>Washoe County Public Defender's Office</b>
<b>January 1, 2012</b>	<b><i>Primary General Election</i></b> <b>State Bar of Nevada</b>
<b>January 1, 2012</b>	<b><i>Judicial Settlement</i></b> <b>State Bar of Nevada</b>
<b>January 1, 2012</b>	<b><i>Supreme Court Update 2012</i></b> <b>State Bar of Nevada</b>
<b>September 9, 2011</b>	<b><i>Confession of Guilt</i></b> <b>Washoe County Public Defender's Office</b>

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

**I work for a governmental agency.**

<b>Business and Occupational Experience</b>
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26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

**Other than the student jobs I have listed herein, I have not engaged in any occupation, business or profession other than the practice of law.**

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:
- the nature of the business,
  - the nature of your duties,
  - the extent of your involvement in the administration or management of the business,
  - the terms of your service,
  - the percentage of your ownership.

**Yes, prior to my appointment to the Second Judicial District Court, I served as the managing partner of the law firm of Stiglich & Hinckley, LLP.**

- the nature of the business: **This was a law firm with offices in Nevada and California.**
- the nature of your duties: **I was the managing partner of the firm. I also carried a full caseload of criminal, civil and administrative matters.**
- the extent of your involvement in the administration or management of the business: **In my capacity as managing partner, I was responsible for the administration and operation of the businesses in Nevada and California, including but not limited to, managing support staff and contract attorneys, client trust funds, billing and compliance.**
- the terms of your service: **This firm operated continuously from 2002 until 2012 and was dissolved upon my appointment to the Second Judicial District Court.**
- the percentage of your ownership: **I owned 60 percent of the business.**



28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

**Not applicable**

<b>Civic, Professional and Community Involvement</b>
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29. Have you ever held an elective or appointive public office in this or any other state? Have you been a candidate for such an office? If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

<b>ELECTIVE /APPOINTIVE PUBLIC OFFICES</b>	
<b>YEAR</b>	<b>OFFICE</b>
<b>2014</b> <b>Elected/Retained by voters</b>	<b>District Court Judge</b> <b>Second Judicial District Court, Department Eight</b>
<b>2012</b> <b>Appointed by Governor Brian Sandoval</b>	<b>District Court Judge</b> <b>Second Judicial District Court, Department Eight</b>
<b>2004 - 2008</b> <b>Appointed by San Francisco Mayor Gavin Newsom</b>  <b>Subsequently elected by peers on the Commission to serve as Commission President</b>	<b>San Francisco Juvenile Probation Commissioner</b>  <b>The Commission sets the policies for the Juvenile Probation Department and oversees the management of the Department and the implementation of the policies. My duties as Commission President were to manage the Commission, set the agenda, appoint staff committees, and act as a liaison between the Commission and other city offices and departments. The Commission was also responsible for approving the budget for the Department and complying with budget directives.</b>

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

<b>DATE</b>	<b>ORGANIZATION</b>	<b>POSITION</b>
<b>2016</b>	<b>Office of Governor Brian Sandoval</b> <b>Prescription Drug Abuse Prevention Summit</b>	<b>Planning Committee Member and Summit Presenter</b>
<b>2016-Present</b>	<b>Second Judicial District Court</b> <b>Court Interpreter Committee</b>	<b>Committee Member</b>
<b>2015-Present</b>	<b>Nevada Legislature</b> <b>Advisory Commission on the Administration of Justice</b>	<b>Commission Member</b>

<b>2015-Present</b>	<b>Nevada Supreme Court Commission on Statewide Rules of Criminal Procedure; Jury Instructions Subcommittee</b>	<b>Commission Member</b>
<b>2014-Present</b>	<b>Second Judicial District Court Youth Offender Drug Court</b>	<b>Co-Founder and Presiding Judge</b>
<b>2014-Present</b>	<b>Second Judicial District Court Probate Court</b>	<b>Presiding Judge</b>
<b>2014-Present</b>	<b>State of Nevada Commission on Judicial Discipline</b>	<b>Alternate Commission Member</b>
<b>2014-2015</b>	<b>Nevada Legislature Advisory Commission on the Administration of Justice, Subcommittee on Victims of Crime</b>	<b>Commission Member</b>
<b>2014-2016</b>	<b>Washoe County Criminal Justice Advisory Committee (CJAC)</b>	<b>Committee Co-Chair</b>
<b>2014-Present</b>	<b>Second Judicial District Court Civil Bench/Bar Committee</b>	<b>Committee Co-Chair</b>
<b>2014-Present</b>	<b>Second Judicial District Court Court Automation Enhancement Project Committee</b>	<b>Committee Chair</b>
<b>2013-2014</b>	<b>Washoe County Criminal Justice Advisory Committee (CJAC)</b>	<b>Committee Member</b>
<b>2013-2014</b>	<b>Second Judicial District Court Civil Bench/Bar Committee</b>	<b>Committee Co-Chair</b>
<b>2013-2014</b>	<b>Second Judicial District Court Court Automation Enhancement Project Committee (CAEP)</b>	<b>Committee Member</b>
<b>2013-2014</b>	<b>Second Judicial District Court Foreclosure Mediation Program</b>	<b>Presiding Judge</b>
<b>2012</b>	<b>United States District Court/Northern District of California Criminal Justice Act Administration Committee Oakland/San Francisco Panel Selection Subcommittee</b>	<b>Panel Member</b>

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

<b>TEACHING EXPERIENCE</b>		
<b>DATE</b>	<b>INSTITUTION</b>	<b>POSITION/COURSES</b>
<b>2015-2016</b>	<b>University of Nevada, Reno Reno, Nevada</b>	<b>Instructor CRJ 498 "The Trial"</b>
<b>2014-Present</b>	<b>The National Judicial College Reno, Nevada</b>	<b>Faculty Member (1) Conducting the Trial (2) Administrative Law: High Volume Decision Writing</b>

<b>2014-Present</b>	<b>National Tribal Judicial Center At The National Judicial College Reno, Nevada</b>	<b>Faculty Member Essential Skills for Tribal Court Judges: Judicial Opinion Writing</b>
<b>2003-2005</b>	<b>New College of the Law San Francisco, California</b>	<b>Adjunct Professor Evidence</b>
<b>2003-2004</b>	<b>New College of the Law San Francisco, California</b>	<b>Adjunct Professor Criminal Advocacy Clinic</b>
<b>2001</b>	<b>Stanford Law School Palo Alto, California</b>	<b>Teacher Stanford Advocacy Skills Workshop</b>
<b>2000-2002</b>	<b>Golden Gate University School of Law San Francisco, California</b>	<b>Adjunct Professor Criminal Law</b>
<b>1999-2002</b>	<b>John F. Kennedy School of Law Walnut Creek, California</b>	<b>Adjunct Professor Evidence</b>
<b>1998</b>	<b>John F. Kennedy School of Law Walnut Creek, California</b>	<b>Adjunct Professor Misdemeanor Criminal Defense Clinic</b>
<b>CONTINUING LEGAL EDUCATION (CLE) INSTRUCTOR/PRESENTER</b>		
<b>DATE</b>	<b>SPONSOR</b>	<b>POSITION/COURSES</b>
<b>September 1, 2016</b>	<b>Office of Governor Brian Sandoval</b>	<b>Panel Presenter <i>Prescription Drug Abuse Prevention Summit: Criminal Justice Interventions Sequential Intercept Model Part Two</i></b>
<b>August 25, 2016</b>	<b>The National Judicial College</b>	<b>Faculty <i>Administrative Law: Fair Hearing-High Volume Decision Writing</i></b>
<b>February 9, 2016</b>	<b>Inns of Court, Bruce R. Thompson Chapter</b>	<b>Group Presentation <i>Ethics and the Law – What Would Abe Do?</i></b>
<b>August 27, 2015</b>	<b>The National Judicial College</b>	<b>Faculty <i>Administrative Law: Fair Hearing-High Volume Decision Writing</i></b>
<b>August 8, 2014</b>	<b>Association of Defense Counsel of Northern California &amp; Nevada</b>	<b>Lecturer and Panel Presenter <i>Effective Courtroom Advocacy</i></b>
<b>May 1, 2014</b>	<b>The National Judicial College</b>	<b>Faculty <i>Conducting the Trial</i></b>
<b>March 19, 2014</b>	<b>National Tribal Judicial Center At The National Judicial College</b>	<b>Faculty <i>Essential Skills for Tribal Court Judges-Judicial Opinion Writing</i></b>

<b>March 18, 2014</b>	<b>Northern Nevada Women Lawyers Association</b>	<b>Panel Presenter Judicial Panel with District Court Judges Stiglich, Berry, and Peck; Nevada Supreme Court Justice Saitta; and U.S. District Court Judge Du</b>
<b>January 14, 2014</b>	<b>Northern Nevada Women Lawyers Association</b>	<b>Panel Presenter Court of Appeal Initiative – The Time Has Come</b>
<b>November 8, 2013</b>	<b>State Bar of Nevada</b>	<b>Workshop Facilitator Trial Advocacy: Jury Instruction Workshop</b>
<b>October 15, 2013</b>	<b>Northern Nevada Women Lawyers Association</b>	<b>Panel Presenter Social Security Administration</b>
<b>September 10, 2013</b>	<b>Nevada Justice Association</b>	<b>Co-Presenter Courtroom Etiquette and Practice Tips Judicial Panel with District Court Judges Freeman, Sattler, and Stiglich</b>
<b>May 10, 2013</b>	<b>NBI: National Business Institute</b>	<b>Panel Presenter As Judges See it: Top Mistakes Attorneys Make in Civil Litigation</b>
<b>April 19, 2013</b>	<b>Nevada District Judges Association Annual Conference</b>	<b>Co-Presenter Interactive Evidence</b>
<b>April 16, 2013</b>	<b>Nevada Justice Association Richard A. Harris Series of CLE</b>	<b>Co-Presenter Courtroom Etiquette and Practice Tips</b>
<b>March 7, 2013</b>	<b>Northern Nevada Women Lawyers Association</b>	<b>Panel Presenter Women of Nevada Judiciary: Experience &amp; Practice Tips for Becoming a Successful Attorney</b>

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

<b>COMMUNITY ACTIVITIES</b>	
<b>ORGANIZATION</b>	<b>POSITION(S)</b>
<b>St. Thomas More Society of Nevada Red Mass of the Diocese of Reno</b>	<b>Member, Red Mass Host Committee</b>
<b>Reno Rotary Club (Sunrise)</b>	<b>Member Secretary Sergeant at Arms</b>
<b>Sierra Nevada Ballet Board of Directors</b>	<b>Board Member</b>
<b>Washoe County Law Library Board of Directors</b>	<b>Board Member</b>
<b>American Bar Association TIPS/ABOTA National Trial Academy</b>	<b>Mock Trial Judge</b>

<b>Friends of Nevada Mansion</b>	<b>Board Member</b>
<b>Nevada High School Mock Trial Competition</b>	<b>Scoring Judge</b>
<b>National Council of Juvenile &amp; Family Court Judges Project ONE: Implementation Working Group</b>	<b>Member</b>
<b>Project REAL (Relevant Education About the Law)</b>	<b>Member</b>

33. List honors, prizes, awards, or other forms of recognition.

<b>YEAR</b>	<b>HONOR/PRIZE/AWARD/RECOGNITION</b>
<b>2016</b>	<b>Judicial Survey*</b> <b>Washoe County Bar Association</b>  <b>96.6 percent retention rating</b>  <b>Highest retention rating and highest ranking performance score of all Second Judicial District Court Judges</b>
<b>2014</b>	<b>Judicial Survey*</b> <b>Washoe County Bar Association</b>  <b>93.3 percent retention rating</b>
<b>2012</b>	<b>Super Lawyer Northern California</b>
<b>2009</b>	<b>Super Lawyer Northern California</b>
<b>2008</b>	<b>Super Lawyer Northern California</b>

**\*The Washoe County Bar Association Judicial Survey is administered every two years.**

34. Have you at anytime in the last 12 months belonged to or do you currently belong to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

**No**

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

<b>PUBLICATIONS</b>		
<b>YEAR</b>	<b>TITLE</b>	<b>PUBLICATION</b>
<b>2016</b>	<b>Co-Authored with James Popovich "The Second Judicial District Court's New Youth Offender Court"</b>	<b><i>Nevada Lawyer</i> August 2016</b>
<b>2013</b>	<b>Co-Authored with Zelalem Bogale, Esq. "Writing to Judges...Persuasively"</b>	<b><i>Nevada Lawyer</i> October 2013</b>

1995	Author Comment, Fourth Amendment Protection for Juvenile Probationers in California, Slim or None?: <i>In re Tyrell J.</i>	<i>Hastings Constitutional Law Quarterly</i> , Vol 22, No. 3 p.893 [1995]
1994	Co-Authored with Lawrence Gibbs “What Talks and What Walks: Winning and Losing Issues in the Court of Appeal”	<i>CACJ Forum</i> , 1994 Vol. 21, No. 1
<b>SPEAKING ENGAGEMENTS/PRESENTATIONS</b>		
<b>YEAR/DATE</b>	<b>TOPIC</b>	<b>ORGANIZATION</b>
August 5, 2016	Overview of the Nevada Judicial System/Legal Terminology	Supreme Court of Nevada Administrative Office of the Courts Workshop/Examination for Prospective Certified Court Interpreters
June 21, 2016	Presentation Regarding Drug Courts of the Second Judicial District Court	Prescription Drug Abuse Prevention Summit; Planning Committee Meeting
June 8, 2016	Judicial Panel with Second Judicial District Court Judges Freeman, Sattler, Simons, and Stiglich	Washoe County Bar Association
May 31, 2016	Estate and Charitable Planning Panel Presentation	The Children’s Cabinet
May 13, 2016	Role of Government Workshop Judicial Roundtable: U. S Magistrate Judge Valerie Cooke, U.S. District Court Chief Judge Michael Gibbons, Nevada Court of Appeals Judge Lidia S. Stiglich, Second Judicial District Court	Leadership Reno Sparks
March 24, 2016	Overview of the United States Court System and Judicial Independence	National Judicial College Northern Nevada International Center
April 24, 2015	Academy Class #71 Graduation Address; Keynote Speaker	Nevada Department of Public Safety
April 17, 2015	Naturalization Ceremony Closing Comments	U.S. District Court District of Nevada
November 21, 2014	Naturalization Ceremony Closing Comments	U.S. District Court District of Nevada
October 24, 2014	Academy Class #70 Graduation Address; Keynote Speaker	Nevada Department of Public Safety
October 23, 2014	Ethics and Practice Tips in Trial and Appellate Practice	State Bar of Nevada
October 21, 2014	Judicial Candidates Meet and Greet	Sierra Nevada Association of Paralegals

<b>October 10, 2014</b>	<b>Naturalization Ceremony Closing Comments</b>	<b>U.S. District Court District of Nevada</b>
<b>July 2, 2014</b>	<b>State Officers' Oath of Office Ceremony</b>	<b>Nevada Girls State</b>
<b>June 24, 2014</b>	<b>Panel Discussion with Second Judicial District Court Judges Berry and Stiglich</b>	<b>Nevada Justice Association Women's Caucus</b>
<b>May 1, 2014</b>	<b>Academy Class #69 Graduation Keynote Speaker</b>	<b>Nevada Department of Public Safety</b>
<b>February 28, 2014</b>	<b>Television Show Guest</b>	<b><i>Lawyers, Guns and Money</i></b>
<b>January 16, 2014</b>	<b>Courtroom Etiquette</b>	<b>State Bar of Nevada Solo &amp; Small Practice Section</b>
<b>December 19, 2013</b>	<b>Academy Class #68 Graduation Address; Keynote Speaker</b>	<b>Nevada Department of Public Safety</b>
<b>October 29, 2013</b>	<b>View From the Bench</b>	<b>Nevada Association of Defense Counsel</b>
<b>June 6, 2013</b>	<b>Advice for Solo Practitioners</b>	<b>State Bar of Nevada Solo &amp; Small Practice Section</b>
<b>May 15, 2013</b>	<b>Courtroom Etiquette and Expectations</b>	<b>Sierra Nevada Association of Paralegals</b>
<b>February 26, 2013</b>	<b>Law Day</b>	<b>North Tahoe Lions Club</b>

36. During the past 10 years, have you been registered to vote? Have you voted in the general elections held in those years?

**I have been continuously registered to vote during the past ten years. I have voted in all but one of those general elections due to a delay in transfer of my voter registration during my relocation from California to Nevada.**

37. List any vocational interests and hobbies.

**I enjoy travel, arts and literature, and spending time with my family. I am an avid and voracious reader.**

**I am an active person. I have been a recreational runner since the late 1990s when I qualified for and completed the Boston Marathon. Currently, and much to my dog's delight, I am a recreational walker. My family and I enjoy numerous outdoor activities such as hiking, boating and swimming. I frequent my daughter's athletic events and recitals.**

Conduct
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38. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges and dispositions.

**No**

39. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to question 71.

**No**

40. Have your ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

**No**

41. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

**No**

42. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

**No**

43. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

**No**

Other

44. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

Name of Commission: **Commission on Judicial Selection**

Date of Submission: **September 14, 2012**

Result: **Selected by Commission as one of three applicants to be considered for appointment by Governor Brian Sandoval. Ultimately appointed by Governor Sandoval to the Second Judicial District Court, Department Eight.**



45. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good supreme court justice. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

**See Attached**

46. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

**When I was a child, my mother was a legal secretary at the Contra Costa County Public Defender's Office. This is where I got my first exposure to the practice of law and my desire to be a trial lawyer.**

**I ran in a contested election in 2014 and retained my seat by an almost 70 percent margin. I understand the rigors of a campaign. If chosen, I am prepared to mount a statewide campaign for retention. To this end, I have spoken with campaign consultants and colleagues. Most importantly, I have discussed this with my family. My family is supportive of my desire to continue on in this important public service.**

47. Attach a sample of no more than 10 pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past 5 years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

**See Attached**

<p style="text-align: center;">Attachment A Employment History</p>
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Please start with your current employment or most recent employment, self employment, and Periods of unemployment for the last 20 years preceding the filing of this Application.

Current Employer:                      **Second Judicial District Court**

Phone Number:                              **(775) 328-3166**

Address:                                        **75 Court Street, Reno, Nevada 89501**

From:    **November 30, 2012**

To:    **Present**

Supervisor's Name:                        **Not applicable**

Supervisor's Job Title:                    **Not applicable**

Your Title:                                    **District Judge, Second Judicial District Court, Department Eight**

Specific Duties:                            **As a District Judge in a court of general jurisdiction, I preside over all aspects of both civil and criminal cases. This includes issuing written orders on all motions submitted to the court, managing a criminal caseload of gross misdemeanor and felony cases, and conducting criminal and civil jury and bench trials. I also serve as the Probate Judge for the Second Judicial District.**

**In addition, I am the co-founder and presiding judge of the Youth Offender Drug Court. This specialty court was designed for the young adult population, ages 18 to 24, who are opiate/heroin users, as an alternate sentencing/rehabilitation program.**

Reason for Leaving:                        **Not applicable**

☐      **I request that you do not contact my present employer**

<p style="text-align: center;">Attachment A Employment History Continued</p>
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Please start with your current employment or most recent employment, self employment, and Periods of unemployment for the last 20 years preceding the filing of this Application.

Previous Employer:                      **Stiglich & Hinckley, LLP**

Phone Number:                      **Not applicable**

Address:                      **Not applicable**

From:                      **2002**

To:                      **2012**

Supervisor's Name:                      **Not applicable**

Supervisor's Job Title:                      **Not applicable**

Your Title:                      **Managing Partner**

Specific Duties:                      **As managing partner, I carried a varied caseload which included state and federal criminal and civil matters, and administrative matters. I represented San Francisco police officers on behalf of the San Francisco Police Officers Association in administrative disciplinary and criminal matters. I served as lead counsel on all jury trial litigation performed by the firm.**

**In my capacity as managing partner, I bore responsibility for the administration and operation of the entire business in both Nevada and California, including but not limited to, managing support staff and contract attorneys, client trust funds, billing, and compliance.**

Reason for Leaving:                      **Appointed to the Second Judicial District Court, Department Eight**

<p style="text-align: center;">Attachment A Employment History Continued</p>
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Please start with your current employment or most recent employment, self employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

<u>Previous Employer:</u>	<b>Office of the Lieutenant Governor</b>
Phone Number:	<b>(775) 684-7111</b>
Address:	<b>101 North Carson Street, Suite 2, Carson City, Nevada 89701</b>
From:	<b>2011</b>
To:	<b>2012</b>
Supervisor's Name:	<b>Brian K. Krolicki</b>
Supervisor's Job Title:	<b>Lieutenant Governor</b>
Your Title:	<b>Special Counsel</b>
Specific Duties:	<b>As Special Counsel, I worked directly with the Lieutenant Governor and his staff and advised on legal matters related to economic development, tourism, and cultural affairs, as well as special projects.</b>
Reason for Leaving:	<b>Appointed to the Second Judicial District Court, Department Eight</b>

<p style="text-align: center;">Attachment A Employment History Continued</p>
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Please start with your current employment or most recent employment, self employment, and Periods of unemployment for the last 20 years preceding the filing of this Application.

<u>Previous Employer:</u>	<b>San Francisco Public Defender's Office</b>
Phone Number:	<b>(415) 553-1671</b>
Address:	<b>555 Seventh Street, San Francisco, California</b>
From:	<b>1997</b>
To:	<b>2002</b>
Supervisor's Name:	<b>Ron Albers/Daro Inoyue</b>
Supervisor's Job Title:	<b>Felony Supervisor(s)</b>
Your Title:	<b>Senior Trial Attorney</b>
Specific Duties:	<b>I represented indigent individuals charged with state felonies in all phases of the criminal process.</b>
Reason for Leaving:	<b>I wanted to grow as a lawyer and expand the type and nature of cases on which I worked.</b>

<p style="text-align: center;"><b>Attachment A</b> <b>Employment History Continued</b></p>
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Please start with your current employment or most recent employment, self employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

<u>Previous Employer:</u>	<b>Solano County Office of the Public Defender</b>
Phone Number:	<b>(707) 553-5241</b>
Address:	<b>355 Toulumne Street, Suite 2200, Vallejo, California 94590</b>
From:	<b>1997</b>
To:	<b>1997</b>
Supervisor's Name:	<b>Kathryn Streem</b>
Supervisor's Job Title:	<b>Misdemeanor Supervisor</b>
Your Title:	<b>Misdemeanor Trial Attorney</b>
Specific Duties:	<b>I represented indigent individuals charged with state misdemeanors in all phases of the criminal process.</b>
Reason for Leaving:	<b>I took this position until a slot opened up at the San Francisco Public Defender's Office. I worked here for approximately six months.</b>

<p style="text-align: center;"><b>Attachment A</b> <b>Employment History Continued</b></p>
--

Please start with your current employment or most recent employment, self employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

<u>Previous Employer:</u>	<b>San Francisco Public Defender's Office</b>
Phone Number:	<b>(415) 553-1671</b>
Address:	<b>555 Seventh Street, San Francisco, California</b>
From:	<b>1996</b>
To:	<b>1997</b>
Supervisor's Name:	<b>Robin Levine</b>
Supervisor's Job Title:	<b>Misdemeanor Supervisor</b>
Your Title:	<b>Volunteer Attorney</b>
Specific Duties:	<b>I represented indigent individuals charged with state misdemeanors in all phases of the criminal process.</b>
Reason for Leaving:	<b>This was a volunteer position. I worked full-time for a year as an unpaid misdemeanor attorney after passing the bar in 1996. I left to take a paid position at the Solano County Office of the Public Defender.</b>

<p style="text-align: center;">Attachment A Employment History Continued</p>
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Please start with your current employment or most recent employment, self employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

<u>Previous Employer:</u>	<b>Grossman &amp; Gibbs</b>
Phone Number:	<b>Not applicable</b>
Address:	<b>Not applicable</b>
From:	<b>1994</b>
To:	<b>1997</b>
Supervisor's Name:	<b>Elizabeth Grossman/Lawrence Gibbs</b>
Supervisor's Job Title:	<b>Partner</b>
Your Title:	<b>Law Clerk</b>
Specific Duties:	<b>I assisted the partners in criminal and civil matters including writs and appeals. See question 10 for more detail. During the period from 1996-1997 I worked part-time in addition to serving as a full-time as a volunteer attorney at the San Francisco Public Defender's Office.</b>
Reason for Leaving:	<b>I left the firm when I accepted a paid position at the Solano County Office of the Public Defender as a Deputy Public Defender.</b>



Attachment B  
Request for Reference



SUPREME COURT OF NEVADA  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
201 South Carson Street, Suite 250  
Carson City, Nevada 89701  
Telephone (775) 684-1717

**COMMISSION ON JUDICIAL SELECTION  
INFORMATIONAL REQUEST**

**REQUESTED REFERENCE ON BEHALF OF** **LIDIA S. STIGLICH**  
(Name of Applicant)

**REQUEST COMPLETED BY** \_\_\_\_\_  
(Name and Title of Person Providing Reference)

The above individual is applying for a position of Justice in the Nevada Supreme Court, Seat G. The applicant is requesting that you write a letter of reference and complete the enclosed "Reference Inquiry" form. You may decline this request. The reference you provide is strictly confidential; however, all information concerning the three applicants whose names are submitted by the Commission to the Governor for appointment will be provided to the Governor.

It is extremely important to the Commission that you be as objective as possible in assessing the applicant's qualifications. The Commission relies heavily on this information and unless you are totally objective in your comments you will not assist the Commission in carrying out its function.

Do not feel compelled to endorse the applicant merely because you have been asked to provide this information on his or her behalf. Applicants for this vacancy have been instructed to contact only six persons for references. *This form is available to be filled out online at <http://nvcourts.gov/AOC/Templates/documents.aspx?folderID=8938> under Nevada Supreme Court Seat G Request for Reference Letter.* You are requested to send your letter of reference, including a copy of this request letter, and the completed "Reference Inquiry" form to Robin Sweet, Secretary of the Nevada Commission on Judicial Selection at the address provided above. Please provide this information by **Friday, September 23, 2016.** A copy of your letter should **not** be sent to the applicant.

Robin Sweet  
Secretary, Commission on Judicial Selection

Attachment Question 45
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45. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good supreme court justice. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

In my 20 years of practicing law in a myriad of judicial arenas, I have litigated all manner of civil and criminal matters. Additionally, my years of experience sitting in General Jurisdiction Court in the Second Judicial District have profoundly deepened my commitment to ensuring the tenets of our constitutionally created system of law are protected, equally accessed and delivered in a fair and unbiased manner. Litigants who access our courts on a daily basis are entitled to no less, with or without the assistance of counsel. My tenure as a District Court Judge has amplified my passion for the law, enriched me professionally and instilled the desire to strengthen the judiciary through committed leadership and hard work to protect and preserve the institution of justice. The Nevada Supreme Court provides a unique opportunity to touch the lives of all Nevadans. I am acutely aware of the significant role the Court plays in the lives of ordinary citizens, as well as businesses and institutions. For these reasons, and with the skills my legal and judicial career have afforded, I am applying as a qualified candidate for the vacant position of Justice of the Supreme Court of Nevada.

As a judge, I am immersed in the daily delivery of quality judicial dispositions in a thoughtful and efficient manner while carrying a caseload of approximately 1,200 cases per year—pronouncing judgment and issuing decisions in thousands of cases annually. I enjoy presiding over criminal and civil jury and bench trials, recognizing the importance of judicial management for purposes of issues on appeal. In addition, I have the opportunity to decide numerous Petitions for Writs of Habeas Corpus, Mandamus, and/or Prohibition. In such cases, I serve as an appellate judge reviewing the decision of a lower court or an agency's administrative determination. As with an appellate court, I confine my review to the record on appeal. I take seriously my judicial responsibility to analyze legal issues, apply legal standards of appellate review and reach prompt decisions addressing appropriate abuse of discretion and *de novo* review standards. Such judicial experience has instilled within me an understanding of the critically significant elements of review before an appellate court and the importance of limiting the decision rendered to facts established in the record. I enjoy working within the parameters of appellate review standards and protecting the integrity of the trial court process, maintaining the dignity of the record below and preserving critical elements of due process in appellate

court decision-making. I also understand the doctrine of *stare decisis* as a guiding principal of appellate review, disturbed only in compelling circumstances that dictate a measured shift. I enjoy such legal analysis and possess the attendant writing skills required to clearly convey the court's decision. Such insight enhances my desire to become a member of the Nevada Supreme Court.

Since first taking judicial office, I have been committed to making a difference in the Second Judicial District Court and am passionate about improving the quality of judicial services and its fair and efficient delivery. I am an active member of the Judiciary, continually seeking additional opportunities to work with judicial colleagues, court administration, members of the Bar and community stakeholders to facilitate resolution and forward progression. In addition to my regular general jurisdiction duties, I was selected to serve as Probate Judge. In that capacity, I reorganized the Probate Department, oversaw the discharge of stagnant cases, and streamlined the adjudication process. Between 2012 and 2014, I was also appointed to preside over the Foreclosure Mediation Program in Washoe County at a time when hundreds of foreclosures were dominating judicial filings. I resolved hundreds of Petitions for Judicial Review and oversaw the foreclosure mediation process that resulted in negotiated settlement of hundreds of claims. In 2015, I identified an underserved population of youth offenders enmeshed in a criminal justice system that failed to effectively address their drug use and related recidivism. In response, I co-founded the Youth Offender Drug Court (YODC) in Washoe County. This specialty court is the first of its kind in the State of Nevada. The program specifically targets opiate/heroin users, ages 18 to 24, referred by the criminal court on diversion cases whose addictions and desperate circumstances quickly propel them through the criminal justice system.

I am also an active member of the legal community. I have participated on a number of local and statewide panels to share information and insights from my experience on the bench and to educate others. I also had the privilege in my role as a judge, to learn from the legal expertise and skills of many practitioners who raise the standard of practice for the entire legal community. I consider it both an obligation and a privilege to be involved in the enhancement of the practice of law and judicial

oversight in this fashion. In 2013, I co-authored an article for Nevada Lawyer Magazine about legal writing and the importance of communicating clearly to judges. The same standard of quality applies to judges communicating reasoned decisions to litigants. Since 2014, I have instructed judges at the National Judicial College in judicial opinion writing. As a judicial educator, I attempt to instill the significance of quality legal writing as a critical component of every judge's responsibility. If I am fortunate enough to become a justice of the Supreme Court of Nevada, I will bring my commitment to the craft knowing that writing is the Supreme Court's primary tool to communicate with the public it serves.

I believe a judge must be fair, impartial, respectful and decent. Throughout my career, I have worked hard to demonstrate these attributes. In my view, a judge must never confuse the privilege of holding judicial office with a right to hold such. In my interactions, I am respectful and courteous, inside and outside of the courtroom. I continually strive to keep an open mind and display a willingness to listen to others. In performing my judicial duties, my foremost goals are to be patient, courteous, and conscientious about the use of my discretion when I make a decision. In criminal matters I recognize the extraordinary effect these decisions have on people's lives and liberties—defendants and victims of crime alike. I approach civil cases similarly because property, businesses, and livelihoods are at stake. Judging is a human business.

If I am fortunate enough to be appointed to the Supreme Court of Nevada, I will continue to embrace this perspective and demonstrate these attributes with tremendous energy and commitment. The Supreme Court of Nevada remains one of the busiest appellate courts in the country. It demands tireless, energetic jurists to manage the important caseload. I am that person. I have the knowledge, experience, temperament, work ethic, and commitment to the rule of law required of a Justice of the Supreme Court of Nevada. These attributes set me apart from other candidates. With respect and humility, I thank this Committee for its consideration.

Attachment Question 47
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47. Attach a sample of no more than 10 pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past 5 years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,  
Plaintiff,

Case No.: CR12-2073  
Dept. No.: 8

vs.

BRIAN JOSEPH HAMBLETT,  
Defendant.

**ORDER GRANTING MOTION TO SUPPRESS**

The central issue presented in this case is whether Nevada's implied-consent law, NRS 484C.160, which conditions "the privilege of operating a vehicle in Nevada . . . upon the driver's consent to submit to a chemical sobriety test," *McCharles v. State, Dept. of Motor Vehicles*, 99 Nev. 831, 833, 673 P.2d 488, 489 (1983) (per curiam), amounts to voluntary consent that justifies a warrantless evidentiary search of a person's blood (or breath) in a drunk-driving case. As explained more fully below, the court concludes it does not. Therefore, Defendant BRIAN JOSEPH HAMBLETT's (Hamblett) *Motion to Suppress* filed on May 20, 2013, and heard on July 29, 2013, will be granted.

I.

While on patrol at approximately 11:30 p.m. on September 6, 2012, a Reno police officer stopped Hamblett's vehicle after observing it screech its tires, unnecessarily yield the right of way to the officer's patrol car, fail to use its turn

1 signal, and later stop abruptly over the stop line at an intersection.<sup>1</sup> The officer  
2 noticed signs of possible impairment and called another officer to conduct a DUI  
3 investigation.

4 When the second officer arrived at approximately 12:10 a.m., he also  
5 observed signs of possible intoxication. After Hamblett completed standardized  
6 field sobriety tests and a preliminary breath test, the second officer placed him  
7 under arrest on suspicion of driving under the influence of alcohol (DUI). He also  
8 confirmed Hamblett had two prior DUI arrests within the last seven years.

9 The officer read Hamblett an admonishment about Nevada's implied-consent  
10 law. Exactly what he read in this admonishment is unclear. What is clear is after  
11 the officer read it, he did not ask whether Hamblett would consent to a blood test.  
12 Nor did he attempt to secure a warrant. Instead, the officer, with Hamblett's prior  
13 DUI convictions figuring prominently into his calculus, "informed" Hamblett that a  
14 blood test would occur. Hamblett did not give express consent to the test, either  
15 verbally or in writing. Nevertheless, the blood test was conducted at approximately  
16 1:00 a.m. It revealed Hamblett's blood alcohol concentration (BAC) was above  
17 Nevada's legal limit of 0.08 grams of alcohol per 100 milliliters of blood.

18 Hamblett now stands accused of one felony count of DUI. Relying on the  
19 recent Supreme Court of the United States' decision *Missouri v. McNeely*, 133 S.Ct.  
20 1552 (2013),<sup>2</sup> as well as *Schmerber v. California*, 384 U.S. 757 (1966), he has moved  
21 to suppress evidence of the blood test under the Fourth Amendment because it was  
22 obtained without a warrant or his consent. The State does not argue exigent  
23 circumstances or express consent justified the warrantless blood test. Rather, it  
24 argues, *inter alia*, Hamblett consented to the test under Nevada's implied-consent  
25 law. In response, Hamblett argues the State has provided no authority that allows  
26 for "a statutory waiver of a constitutional right." (Hr'g Tr. at 12:6-7.)

27 <sup>1</sup> These facts are taken from Hamblett's motion. The State does not challenge their accuracy.

28 <sup>2</sup> Currently available as a slip opinion at [http://www.supremecourt.gov/opinions/12pdf/11-1425\\_cb8e.pdf](http://www.supremecourt.gov/opinions/12pdf/11-1425_cb8e.pdf).



II.

The Fourth Amendment protects individuals against unreasonable searches of their person. U.S. CONST. amend. IV (“[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . .”). A blood draw administered pursuant to an implied-consent law is a search subject to the Fourth Amendment’s constraints because “[s]uch an invasion of bodily integrity implicates an individual’s ‘most personal and deep-rooted expectations of privacy.’” *McNeely*, 569 U.S. at ---, 133 S.Ct. at 1556 (quoting *Winston v. Lee*, 470 U.S. 753, 760 (1985)); see also *State v. Butler*, 302 P.3d 609, 612 (Ariz. 2013) (en banc) (citing *McNeely* for the same legal proposition).

A search is *per se* unreasonable if it is executed without a warrant issued upon probable cause. *Katz v. United States*, 389 U.S. 347, 357 (1967). This *per se* rule is “subject only to a few specifically established and well-delineated exceptions.” *Arizona v. Gant*, 556 U.S. 332, 338 (2009) (internal quotation marks and citation omitted). Among these exceptions is exigent circumstances. The State does not argue that this exception authorized the blood draw here.

Another such exception is consent. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973); *Herman v. State*, 122 Nev. 199, 204, 128 P.3d 469, 472 (2006) (per curiam), *abrogated on other grounds by Nunnery v. State*, 127 Nev. ---, ---, 263 P.3d 235, 249 (2011) (en banc). Whether a person voluntarily consented to a search is a question of fact to be determined on a case-by-case basis from the totality of the circumstances surrounding the person’s consent. *Schneckloth*, 412 U.S. at 227, 248-49. To be valid, consent must be “voluntarily given, and not the result of duress or coercion, express or implied.” *Id.* at 248; accord *Davis v. State*, 99 Nev. 25, 27, 656 P.2d 855, 856 (1983) (per curiam); see also *United States v. Manuel*, 992 F.2d 272, 275 (10th Cir. 1993) (citing *Florida v. Royer*, 460 U.S. 491, 497 (1983) (“Mere

submission to lawful authority does not equate to consent, rather valid consent must be unequivocal and specific, and freely and intelligently given.”)).

Of course, the State, not Hamblett, bears the burden of proving consent to the search in this case was freely and voluntarily given. *Bumper v. North Carolina*, 391 U.S. 543, 548-50 (1968); *accord United States v. Chan-Jimenez*, 125 F.3d 1324, 1327 (9th Cir. 1997) (citation omitted); *cf. United States v. Harvey*, 901 F.Supp.2d 681, 692 (N.D. W.Va. 2012) (“When the government seeks to justify a warrantless search based on consent, it bears the burden of proving, by a preponderance of the evidence, that it obtained knowing and voluntary consent.”) (citations omitted). “This burden is heavier where consent is not explicit, since consent is not lightly to be inferred.” *United States v. Impink*, 728 F.2d 1228, 1232 (9th Cir. 1984) (internal quotation marks and citation omitted). In Nevada, the weight of the State’s burden is by “clear and convincing evidence.” *Howe v. State*, 112 Nev. 458, 463, 916 P.2d 153, 157 (1996) (internal quotation marks and citations omitted; internal brackets removed); *accord McMorran v. State*, 118 Nev. 379, 383, 46 P.3d 81, 84 (2002) (per curiam) (citation omitted). Several factors inform the voluntariness analysis, including but not limited to the person’s age, intelligence and education, and whether the person was advised of his or her constitutional rights. *United States v. Cellitti*, 387 F.3d 618, 622 (7th Cir. 2004) (citing *Schneckloth*, 412 U.S. at 226).

Evidence obtained as a result of an unreasonable search must be excluded (or suppressed), but only if doing so will “deter future Fourth Amendment violations.” *Davis v. United States*, 131 S.Ct. 2419, 2426 (2011). “For exclusion to be appropriate, the deterrence benefits of suppression must outweigh its heavy costs.” *Id.* at 2427 (citations omitted).

### III.

A.

Because no exigent circumstances were present in this case and because no express consent was given, the State asks this court to find that Nevada's implied-

1 consent statute, NRS 484C.160, amounted to consent sufficient to justify the  
2 warrantless search of Hamblett's blood. Remarkably, this issue appears to be a  
3 matter of first impression in Nevada.<sup>3</sup> The court therefore looks to other  
4 jurisdictions that have addressed it with respect to their own implied-consent laws.  
5 A case recently decided by the Arizona Supreme Court, though factually  
6 distinguishable in several respects from the instant case, is instructive.

7 In *State v. Butler*, *supra*, a sixteen-year-old high school student (Tyler) was  
8 detained and later placed under arrest by a deputy sheriff after a school monitor  
9 smelled marijuana on him (and his friends) and saw drug paraphernalia in his car.  
10 302 P.3d at 611 ¶¶ 2, 3. After *Miranda*<sup>4</sup> warnings were given to him, Tyler  
11 admitted that he smoked marijuana before driving to school that morning, and that  
12 he owned some of the paraphernalia in the car. *Id.* ¶ 3. The deputy sheriff read to  
13 him Arizona's "implied-consent admonition" twice, after which he (Tyler) agreed,  
14 verbally and in writing, to have his blood drawn. *Id.* ¶ 4. He was later charged  
15 with DUI. *Id.* ¶ 5.

16 The juvenile court granted Tyler's motion to suppress the blood evidence, the  
17 Arizona Court of Appeals reversed, and the Arizona Supreme Court reversed the  
18 Court of Appeals' decision. *Id.* at 614 ¶ 23. On the issue of voluntary consent the  
19 court referred to another case it recently decided, *Carillo v. Houser*,<sup>5</sup> to explain that  
20 "for an officer to administer a test of breath or bodily fluids on an arrestee without a  
21 search warrant under [Arizona's implied-consent statute], consent must be express."  
22 *Id.* at 613 ¶ 16.<sup>6</sup> Ultimately, the court held: "We hold now that, *independent of [the*

23 <sup>3</sup> At least two other Nevada district courts have recently addressed the issue, either directly  
24 or indirectly, *see State v. Bounds*, CR09-1971 (2nd Judicial Dist. Court, May 15, 2013); *State v.*  
25 *Repinec*, CR-1212131, (7th Judicial Dist. Court., Aug. 2, 2013), but the Nevada Supreme Court has  
not.

26 <sup>4</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

27 <sup>5</sup> 224 Ariz. 463, 232 P.3d 1245 (2010).

28 <sup>6</sup> Citing *Carillo*, *supra*, the *Butler* court went on to explain that because Arizona's implied-  
consent law allows motorists to refuse a test and accept administrative sanctions, the "consent"  
contained in the law neither "constitutes an exception to the warrant requirement [n]or satisfies the  
Fourth Amendment's requirement that consent be voluntary." 613 ¶ 17. *Carillo*, however, turned on

1 implied-consent law], the Fourth Amendment requires an arrestee's consent to be  
2 voluntary to justify a warrantless blood draw." *Id.* at 613 ¶ 18 (emphasis added).

3 Another way of stating this holding is that Arizona's implied-consent law  
4 does not, standing alone, amount to consent sufficient to justify a warrantless blood  
5 draw of an arrestee. This court finds this holding comports with the core Fourth  
6 Amendment principles described above, and is instructive here where the officer,  
7 after arresting Hamblett, directed a warrantless blood draw pursuant to Nevada's  
8 implied-consent law.

9 To be sure, Hamblett's act of driving is the only reason why the consent  
10 exception to the warrant requirement is in play here at all. The State asks this  
11 court to find Hamblett's act of driving amounted to consent sufficient to excuse the  
12 warrant requirement. Yet it fails to meet its burden of providing sufficient facts for  
13 the court to conduct an adequate consent analysis generally or under the totality of  
14 the circumstances of the night in question. First, as a general matter, the court  
15 does not know, for example, whether Hamblett was ever advised that by driving on  
16 Nevada's roads he was statutorily waiving his Fourth Amendment right to be free  
17 from a warrantless search. *See Cellitti*, 387 F.3d at 622 (whether the person was  
18 advised of his or her constitutional rights is a factor to consider in determining  
19 whether consent is voluntary) (citing *Schneckloth*, 412 U.S. at 226). Though  
20 ignorance of the law is no excuse for criminal conduct, ignorance of the law is not a  
21 knowing and intelligent waiver of fundamental constitutional rights either.

22 Second, specifically, the State provides no evidence that shows Hamblett's act  
23 of driving on the night in question constituted unequivocal, free and voluntary  
24 consent to the specific blood draw in this case. The court does not know whether he  
25 was merely submitting to lawful authority when he was "informed" the blood draw  
26 would be conducted, or whether he specifically consented to a warrantless blood

27 \_\_\_\_\_  
28 statutory grounds and did not address any constitutional issues, *id.* at ¶ 16, so *Butler's* reliance on  
*Carillo* and the administrative component of Arizona's implied-consent law does not impact the  
constitutional analysis.

1 draw unequivocally, freely and intelligently. *See Manuel*, 992 F.2d at 275 (“Mere  
2 submission to lawful authority does not equate to consent . . . .”) (citing *Royer*, 460  
3 U.S. at 497). On this record, the court cannot find the State has met its burden of  
4 showing—by clear and convincing evidence, no less—that Hamblett, by virtue of  
5 driving on Nevada’s roads, intelligently and voluntarily consented to a warrantless  
6 search of his blood.<sup>7</sup>

7 With that said, even if the State provided some factual evidence to inform the  
8 consent analysis, the court would still grant Hamblett’s motion due to the nature of  
9 Nevada’s implied-consent law.

10 B.

11 All fifty States have enacted implied-consent laws. *See* NAT’L HWY. TRAFFIC  
12 SAFETY ADMIN., ALCOHOL & HIGHWAY SAFETY: A REVIEW OF THE STATE OF  
13 KNOWLEDGE 173 (No. 811374, Mar. 2011) (NHTSA Review).<sup>8</sup> Historically, States  
14 enacted these laws (first in New York) as a compromise between their strong  
15 interest in enforcing drunk-driving laws and the adverse constitutional implications  
16 of forced blood draws. *Id.* at 164. Implied-consent laws allowed the suspect to  
17 refuse a chemical test at the cost of a license suspension or revocation penalty. *Id.*  
18 The nexus, then, between implied-consent laws and their laudable goal of removing  
19 drunk drivers from the roads is the *administrative* penalty of suspending or  
20 revoking a person’s driving privilege when a constitutionally reasonable search  
21 reveals the person’s BAC is over the legal limit, or when that person withdraws his  
22 or her implied consent.

23  
24  
25 <sup>7</sup> The court notes the driver’s license application currently on the DMV’s website (for teen  
26 drivers ages 16 and 17, beginning drivers 18 years of age and older, or new residents licensed in  
27 another State) makes no mention of Nevada’s implied-consent law. *See* DRIVER’S LICENSE,  
28 DRIVER AUTHORIZATION CARD or IDENTIFICATION CARD APPLICATION,  
<http://www.dmvnv.com/pdf/forms/dmv002.pdf>. The court does not know whether Hamblett signed  
this application and therefore does not rely on the absence of any reference to the implied-consent  
law therein in making the determination in this case.

<sup>8</sup> Report available at [www.nhtsa.gov/staticfiles/nti/pdf/811374.pdf](http://www.nhtsa.gov/staticfiles/nti/pdf/811374.pdf).

1 In 1995, however, Nevada eliminated a person's ability to refuse an  
2 evidentiary BAC test and face administrative sanctions. See A.B. 634 at 1883 (68th  
3 Sess., Nev. 1995) (amending NRS 484C.160's predecessor statute). This current  
4 state of the law is accurately reflected on the DMV's website. DMVNV.com, Nevada  
5 Traffic Laws, <http://www.dmvnv.com/dltrafficlaws.htm#laws> ("You cannot refuse to  
6 take a breath, blood or urine test as directed by a police officer. Blood samples can  
7 be drawn involuntarily, even on a first offense.") (last visited Sept. 26, 2013). As a  
8 consequence, Nevada's implied-consent law now does more than condition a person's  
9 driving privilege on his or her implied consent to submit to a chemical test. It  
10 conditions that privilege on the relinquishment of the person's fundamental  
11 constitutional right to be free from a warrantless blood draw. Though driving is  
12 indeed a privilege, not a right, this court is unaware of any binding legal or  
13 constitutional authority (and the State has provided none) that conditions the  
14 privilege of driving upon the relinquishment of the fundamental constitutional right  
15 to be free from an unreasonable search. Thus, because Nevada's implied-consent  
16 law permits the police to ignore the Fourth Amendment's mandate to obtain a  
17 warrant before drawing a person's blood, or to obtain that person's voluntary  
18 consent to the search, it has not only annihilated the administrative nexus between  
19 the implied-consent concept and the privilege of driving, it has clumsily tread upon  
20 the sacrosanct territory of fundamental constitutional rights applicable to the  
21 States under the Due Process Clause of the Fourteenth Amendment.

22 This is particularly true of the implied-consent provision upon which the  
23 officer relied in obtaining an evidentiary sample of Hamblett's blood in this case.  
24 Knowing Hamblett had two prior DUI arrests, the officer "informed" Hamblett that  
25 a blood draw would be taken. The officer's testimony during grand jury proceedings  
26 reads, in relevant part:

27 Q: Did [Hamblett's prior arrests] affect what kind of test you give in  
28 terms of the blood or breath test?

1 A: That did. For second or third, a third would be a felony at that point, I  
2 do a blood test, evidentiary blood test.

3 Q: Did you read the Nevada Implied Consent to the defendant?  
4

5 A: I did.

6 Q: After reading it to him, did you give him a choice as to whether or not  
7 he could do blood or breath?

8 A: I did not. Due to being a felony, he was informed we would be doing an  
9 evidentiary blood test.

10 (See Grand Jury Tr. (Dec. 12, 2012) at 26:4-15.)

11 Presumably, the officer was referring to NRS 484C.160(4)(c)(2)(I), which  
12 allows the police "to direct the person to submit to a blood test if the officer has  
13 reasonable grounds to believe" the person has been convicted of DUI within the  
14 previous seven years. This provision, like the implied-consent law as a whole, does  
15 not allow the driver to opt out of the implied consent scheme and face  
16 administrative sanctions. It compels an evidentiary BAC test. As a result, it runs  
17 afoul of general Fourth Amendment principles.

18 These principles—mainly the warrant requirement—were recently  
19 reaffirmed by the Supreme Court of the United States in *Missouri v. McNeely*,  
20 *supra*. There, the Court explained a blood draw is a search under the Fourth  
21 Amendment and that "a warrantless search of the person is reasonable only if it  
22 falls within a recognized exception." *McNeely*, 133 S.Ct. at 1558 (citation omitted).  
23 The Court went on to explain: "In those drunk-driving investigations where police  
24 officers can reasonably obtain a warrant before a blood sample can be drawn  
25 without significantly undermining the efficacy of the search, the Fourth  
26 Amendment mandates that they do so." *Id.* at 1561 (citing *McDonald v. United*  
27 *States*, 335 U.S. 451, 456 (1948)). Yet, in this case, the State provides no evidence  
28 that the police could not reasonably obtain a warrant without significantly

1 undermining the efficacy of the search before compelling an intrusion into  
2 Hamblett's veins to obtain an evidentiary sample of his blood. As mentioned  
3 previously, the State concedes no exigent circumstances were present that made a  
4 warrantless blood test urgent or necessary.

5 Therefore, because the police did not obtain a warrant before compelling the  
6 blood draw, and because Hamblett could not consent to the search merely by virtue  
7 of driving on Nevada's roads, the search was unreasonable. Whether exclusion (or  
8 suppression) of the blood evidence is an appropriate remedy for this unreasonable  
9 search, however, is a wholly separate issue to which the court turns next.

10 But first, the court makes this additional note. Even though Missouri has an  
11 implied-consent law, *McNeely* could have but did not rely on it as a basis for the  
12 decision. Instead, it focused on whether the natural dissipation of alcohol created a  
13 *per se* exigency that excuses the warrant requirement. Similarly, even though  
14 Arizona has an implied-consent law, *Butler* could have but did not rely on it as a  
15 basis for the decision. Instead, it focused on whether the defendant's express  
16 consent was voluntary. These cases reflect this court's own research. The court has  
17 not found any case (let alone any binding authority) that utilizes an implied-consent  
18 law standing alone as an exception to justify a warrantless search. And for the  
19 reasons set forth in this subsection (III.B), the court will not do so here.

#### 20 IV.

##### 21 A.

22 The State contends suppression would be an inappropriate sanction because  
23 the officer relied in good faith on Nevada's implied-consent law in conducting the  
24 warrantless search in this case, and as a consequence, suppression would not serve  
25 a useful deterrent purpose. Underlying this contention is the State's assertion that  
26 *McNeely* changed the law, specifically the rule of *Schmerber, supra*. "There can be  
27 no doubt," the State asserts, "that prior to the decision in McNeely, there was no  
28 requirement in Nevada that an officer obtain a search warrant before obtaining a